

GRAMA Notice of Appeal to State Records Committee

Note: Utah Code § 63G-2-403 (GRAMA) provides that any person may further appeal the chief administrative officer's denial of an appeal by filing a notice of appeal with the State Records Committee. This notice must be filed within 30 days of the response from a governmental entity's chief administrative officer or no later than 45 days after the records request was made if the following occur: the governmental entity claims extraordinary circumstances, and the chief administrative officer failed to make a determination.

Requester's information

Name: Bryan R. Thatcher Date: 3/2/2016

Address: _____

City/State/Zip: _____

Daytime telephone number: _____

Make request to

Nova Dubovik
346 South Rio Grande Street
Salt Lake City, Utah 84101
ndubovik@utah.gov

Explanation of Relief Sought

Note: Relief can relate to conflicts over denial of access to records (Utah Code § 63G-2-402) as well as disputes over fees (Utah Code § 63G-2-203(6)) or extraordinary circumstances (Utah Code § 63G-2-402).

The State Records Committee can also use the weighing provision to order the release of records that are properly restricted if it determines that the interests favoring access are greater than or equal to the interests favoring restriction (Utah Code § 63G-2-203(11)).

Explanation of relief sought:

Mr. Thatcher appeals to the State Records Committee for production of his DPS Internal Affairs Investigative Report. Per the attached documentation, Mr. Thatcher was investigated by the DPS IA office on a charge of perjury and violation of department policies. DPS IA began this investigation in February 2014. Based on the results of that investigation Commissioner Keith Squires demoted Mr. Thatcher from his position of Deputy State Fire Marshal to Fire Safety Specialist II (non-sworn) in September of 2014. Commissioner Squires, in his demotion, did not specifically assert findings of either perjury or violation of department policies, but of making false and inconsistent material statements in the course of the investigation.

In August of 2014 Commissioner Squires made a complaint to Utah Peace Officer Standards and Training (POST) alleging Mr. Thatcher had committed "Perjury and Lying under Oath". This investigation not only found "insufficient evidence to prove Thatcher violated any Utah Code", but referenced DPS IA's report. POST's investigation specifically notes that the DPS IA investigation failed to contact multiple witnesses who offered exculpatory testimony which supported Mr. Thatcher's statements, and that the DPS IA investigation failed to take into consideration statements produced independently by Mr. Thatcher's immediate supervisors also corroborating Mr. Thatcher's testimony in the DPS IA investigations.

Mr. Thatcher seeks the denied DPS IA file which has been repeatedly denied him by DPS and DHRM. Mr. Thatcher's records should be classified as public under Utah Code 63G-2-301(3)(a) as a final agency decision of DPS under which disciplinary action has been completed and all time periods for administrative appeal have expired; and the charges on which the disciplinary action was based were sustained.

Mr. Thatcher seeks these files now in the hopes of curing reputational damage done by the DPS IA investigation which has resulted in loss of income, loss of retirement benefits and personal emotional distress caused by the IA findings.

Request for production from Department of Public Safety (DPS):

"All written reports, notes, recordings and/or videos of interviews, documentation of witness interviews and/or statements, and any other records held by DPS regarding Bryan R. Thatcher. This includes records, documents, recordings, notes, and statements from all parties with regard to any and all investigations conducted by internal affairs or professional standards of, or related to, Bryan R. Thatcher."

Request for document production from Department of Human Resource Management (DHRM) related to the same matter:

"Mr. Thatcher seeks the production of all written reports, notes, recordings and/or videos of interviews, documentation of witness interviews and/or statements and any other records held by DHRM regarding Bryan R. Thatcher. This includes records, documents, recordings, notes, and statements."

Inclusions for notice of appeal

The State Records Committee requires documentation and has specific appeals procedures which are outlined in Administrative Rule: Title R35. Administrative Services, Records Committee, and should be reviewed by a petitioner.

This petition to appeal to the State Records Committee requires the following attachments or inclusions:

- ☒ Statement of facts, reasons, and legal authority in support of this appeal
(see Utah Code § 63G-2-403(3)(b)).
- ☒ Original GRAMA request
- ☒ Notice of denial from the governmental agency's records officer
- ☒ Notice of appeal to the governmental entity's chief administrative officer
- ☒ Notice of denial from the governmental entity's chief administrative officer

This notice of appeal must, **on the same day**, also be forwarded to the governmental entity to which the records request was made (Utah Code § 63G-2-403(3)).

- ☒ Notice of appeal sent to agency

Request assistance

A petitioner may request assistance from the government records ombudsman. The ombudsman's responsibility is to serve as a resource for a person who is filing an appeal relating to a records request. The ombudsman may also attempt to mediate disputes between requesters and responders (Utah Code § 63A-12-111(2)).

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